

COUNTY OF YORK

MEMORANDUM

DATE: October 4, 2001 (BOS Mtg. 10/16/01)

TO: York County Board of Supervisors

FROM: James O. McReynolds, County Administrator

SUBJECT: Request for Resolution Supporting a Real and Tangible Personal Property Tax Exemption for Caritas of Yorktown, Virginia, a Virginia non-stock corporation

Caritas of Yorktown, Virginia ("Caritas") owns real property and a building located at 1000 Old York Hampton Highway in York County. The building was completed in June 2000. The land is currently assessed for real estate taxation at a value of \$213,000, and the building at a value of \$342,900, for a total of \$555,900. Caritas was assessed for real estate taxes in the amount of \$3,551.80 for the 2000 tax year, and \$4,780.74 for the 2001 tax year. They have not reported ownership of any personal property on which local taxes could be assessed.

Caritas, following the procedure outlined in Code of Virginia § 30-19.04, is requesting that the York County Board of Supervisors consider whether the General Assembly should grant a real and personal property tax exemption to Caritas. Such exemptions may be granted by the General Assembly pursuant to Article X, Section 6 (A) 6 of the Virginia Constitution and Code of Virginia § 58.1-3650 for "Property used by its owner for religious, charitable, patriotic, historical, benevolent, cultural, or public park and playground purposes" provided that a bill authorizing the exemption is adopted by a three-fourths vote of the members elected to each house of the General Assembly. However, before the General Assembly may consider any such legislation, Code of Virginia § 30-19.04 requires that the governing body of the locality in which the property is situated must first adopt a resolution following a public hearing either supporting or refusing to support such exemption (or, in the alternative, upon evidence that the locality failed to act after a formal and timely request was made that it adopt such a resolution).

Virginia Code § 30-19.04 (copy attached) further sets out the criteria which must be considered by the local governing body when adopting its resolution. I have repeated each of those criteria below, numbered consistently as set out in the state statute, and below each criteria, in italics, have set out the responsive information provided by Caritas. That information is set out in a letter of August 17, 2001 from Bradley Berrane, attorney-at-law (copy attached).

1. **Whether the organization is exempt from taxation pursuant to § 501(c) of the Internal Revenue Code of 1954.**
We are proud to inform you that Caritas is exempt from taxation under § 501(c).
2. **Whether a current annual alcoholic beverage license for serving alcoholic beverages has been issued by the Alcoholic Beverage Control Board to such organization, for use on such property.**
Caritas does not have a license for serving alcoholic beverages issued by the Virginia Alcohol Control Board.
3. **Whether any director or officer of the organization is paid compensation in excess of a reasonable allowance for salaries or other compensation for personal services which such director or officer actually renders.**
No director or officer of the organization is paid compensation for salaries or other compensation for personal services.
4. **Whether any part of the net earnings of such organization inures to the benefit of any individual, and whether any significant portion of the service provided by such organization is generated by funds received from donations, contributions or local, state or federal grants. As used in this subsection, donations shall include the providing of personal services or the contributions of in kind or other material services.**
The only fees paid by Caritas in the past have been for attorney's fees in handling its annual corporate report. A considerable amount of the donations made to Caritas come from the York County Business Association, but Caritas does not receive any donations, contributions, or grants from any local, state, or federal authorities. Personal services provided for the benefit of the organization are provided by the members of the Caritas Board of Directors and by members of the York County Business Association.
5. **Whether the organization provides services for the common good of the public.**
The organization provides services for the common good of the public.
6. **Whether a substantial part of the activities of the organization involves carrying on propaganda, or otherwise attempting to influence legislation and whether the organization participates in, or intervenes in, any political campaign on behalf of any candidate for public office.**
Caritas does not carry on propaganda or otherwise attempt to influence legislation. The organization does not participate or intervene in any political campaign on behalf of any candidate for public office. However, in the past, members of both political parties have used Caritas' facility to hold events.
7. **No rule, regulation, policy, or practice of the organization discriminates on the basis of religious conviction, race, color, sex or national origin.**

Caritas does not discriminate against anyone on the basis of religious conviction, race, color, sex or national origin.

8. The revenue impact to the locality and its taxpayers of exempting the property.

The only revenue impact on York County will be the loss of real estate taxes which are currently paid, a copy of the assessment and tax bills included.

9. Any other criteria, facts and circumstances which the governing body deems pertinent to the adoption of such resolution.

If there are any other criteria, facts or circumstances which you think the Board of Supervisors would deem pertinent in considering the adoption of a resolution supporting Caritas' exemption from real estate taxes, please let me know.

In addition, Va. Code § 30-19.04 requires that, if the local governing body supports the requested tax exemption, the resolution shall include a recommendation to the General Assembly for a specific classification to be applied to the exempt property. The classifications available are religious, charitable, patriotic, historical, benevolent, cultural, or public park and playground. The classifications which Caritas seems to most closely fit are "charitable" and "benevolent."

Supporting this type of request for tax exemption may send a mixed message to the General Assembly and, more specifically, our delegation. The County has repeatedly asked that the state not erode the local taxing authority granted by the state code. Supporting an exemption for organizations otherwise subject to taxation may be seen as contrary to this position. On the other hand, organizations such as Caritas which engage exclusively in charitable and benevolent activities frequently request, and commonly are granted, such tax exemptions, and numerous bills making such requests are submitted to every session of the General Assembly. The Code of Virginia lists the organizations which have been granted such exemptions since 1971. The names of the organizations, together with the dates and section numbers of the adopted legislation granting the exemption, run for approximately 17 pages of small print, double columns. There are currently 960 organizations listed, with about 50 or so names being added in a typical year. I have not bothered to copy those pages from the state code, but they may be found in any copy of the Virginia State Code as § 58.1-3650.1 through § 58.1-3650.960. Nonetheless, I should note that the General Assembly may either grant or deny the exemption regardless of the position taken by the Board of Supervisors.

There are three options available for dealing with Caritas' request that the County support its effort to become exempt. Those options are:

1. Adopt a resolution supporting the request;
2. Adopt a resolution declining to support the request; and
3. Decline to adopt any resolution.

Proposed Resolution R01-187 has been prepared for the Board's consideration. If adopted, this resolution will state the County's support for the requested exemption. Once the Board has addressed this issue, staff will prepare correspondence communicating the decision to Caritas and appropriate state offices. Please let me know if you have any questions.

Barnett/3440:swb

Attachments

- Va. Code § 30-19.04
- Letter from Bradley E. Berrane dated August 17, 2001
- Resolution R01-187